

**SALES AND USE TAX REVIEW COMMISSION
RECOMMENDATION PURSUANT TO P.L. 1999, C. 416**

BILL NUMBER:

A-3301

DATE OF INTRODUCTION:

September 27, 2004

SPONSOR:

Assemblyman Wisniewski

DATE OF RECOMMENDATION:

December 6, 2004

IDENTICAL BILL:

COMMITTEE:

Assembly Transportation Committee

DESCRIPTION:

This bill exempts from sales and use tax sales of certain equipment to railroad police.

ANALYSIS:

This bill is proposed to extend the sales and use tax exemption currently provided to railroad companies for railroad equipment to commissioned railroad police for equipment required in the course of duty.

As a matter of policy the commissioned railroad police should be subsidized but not through the tax system. The problem with this proposed legislation is that the language is too broad. The bill is not clear on what type of equipment qualifies for this exemption or to whom the exemption applies. Such ambiguity leads to subjective interpretation rendering the bill difficult to administer and enforce. Without clear definitions on what type of equipment is exempt and for whom this exemption applies, vendors will have the responsibility of determining which types of equipment qualify for the exemption. Being unable to identify exempt purchases of equipment could result in abusive and fraudulent practices.

In addition, this exemption benefits a specialized group and does not promote horizontal equity. Horizontal equity mandates that sales tax legislation be broadly based and tax similar transactions, persons or things in a similar manner. This bill gives preferential treatment to commissioned railroad police.

Finally, the expanded exemption would further alter the broad-based nature of the sales and use tax. A broad-based tax, imposed with limited exemptions or exclusions on a wide range of transactions, is easy to understand and administer, and is generally perceived as economically neutral and "fair". When imposed at a fairly low rate, the burden, per transaction, on the individual taxpayer, is relatively small, but the cumulative revenue generated can be enormous. Expanding the railroad exemption would save an individual purchaser a fairly insignificant sum every year. However, the cumulative loss of revenue to the State is substantial, leaving the State to find other means of generating the revenue lost as a result of an expanded exemption.

RECOMMENDATION:

The Commission opposes enactment of this bill.

COMMISSION MEMBERS FOR PROPOSAL: 0

COMMISSION MEMBERS AGAINST PROPOSAL: 6

COMMISSION MEMBERS ABSTAINING: 0

(EJL)